

Veto Message.

the Message of Governor Willard Vetoing the Bill  
Providing for the Election of United States  
Senators.

Gentlemen of the Senate

I return to you enrolled bill of the Senate No.  
entitled, "An act to prescribe the time, place  
manner of selecting United States Senators."

It is to be regretted that there should be any necessity for State legislation on this subject. The Constitution of the United States confers on Congress full power to regulate the time and manner of choosing Senators. The authors of that Constitution anticipated that confusion would arise from the conflicting rules of the States that even some States might decline entirely to be represented in the Senate. The result of the failure of Congress to exercise power conferred upon it, has been that con-

rules and regulations have been adopted reference to the manner of elections, to such an extent that it is now apparent that no uniform can be adopted on the subject until Congress executes the restoration of the Constitution to which have before alluded.

But since Congress has failed to pass any law on the subject, and inasmuch as there is no law provided by the Legislature of the State, I regard it as highly proper that one should be established.

But in establishing the regulation which shall prevail in the future, would it not be wise to so make it, that hereafter, no such bill should be

the subject? You are not unmindful of the story of this question in the State. Frequently election of United States Senators has been all absorbing question before the Legislature, and for this reason great public interests have been neglected, domestic legislation, in which the welfare of the State and the happiness of her people were involved. The result has been differences of opinion between the two Houses of General Assembly, as to the propriety of elections, and the persons to be chosen, have been so great, that at sometimes no election has been had, and our State for years in part been unrepresented.

In the United States Senate. I make no intention of having to do right or wrong in these matters, for I am confident that

Each individual who has been an actor in the issues is responsible for the part he has taken to the constituency he represented, and in a free government, like our own, an intelligent and patriotic people will give to each his just reward or punishment, as his conduct may deserve.

More harmony will prevail in your deliberations, less excitement will exist among the constituents you represent, should a law be passed that placed it beyond the power of either House the General Assembly, by its separate action

defeat an election of United States Senators. Section 2d of the bill you have passed requires that a majority of the whole number of the members of the Senate, and a majority of the whole number of the members of the House of Representatives, be necessary to designate a Senator. If such a majority of each branch of the General Assembly could be procured, it would be a simple mode of election. But the history of the State shows that times past, on several occasions, no such concurrent majority could be procured; and for that reason the State has been without her proper representation in the Senate.

It has been sometimes impossible to bring the vote together so that a vote could be obtained. The law provides for the creation of a joint convention, or any other mode of election where a majority of the General Assembly could elect the Senators, so far as the mode and manner of election is concerned, it would command

The 19th section of article 4 of the constitution of the State provides that "Every act shall em-

ance but one subject, and matters properly connected therewith, which subject shall be expressed in the title."

The Supreme Court of the State, in the case of *Indiana central railway company vs. Potts and others*, 7th Indiana Reports 681, have considered this section of the constitution. They decided that the provision for a criminal prosecution need not be included in a civil act. The court has also discussed this section of the constitution, showing the reasons why and the necessity for its adoption. Section 29 of the same article declares that the General Assembly shall not pass local or

cial laws for the punishment of crimes and misdemeanors. Thus all provisions of laws made by the Legislature, chosen by each branch, shall be guilty of a misdemeanor in the special case were named, while in no way held responsible for any other dereliction of duty. The only way in which they can be punished is by a general act, making it an offense to refuse to obey the orders of the House where said officers are elected.

Again, the bill provides that the Secretary of State shall be guilty of a misdemeanor in the certificate of election, and upon failure thus to do he shall be guilty of a misdemeanor. I know of no section of the constitution which gives to the Sec-

Article 15 of the seal of the State. Section 5 of article 15 of the constitution provides that there shall be a seal of the State, kept by the Governor, which shall be called "the Great Seal of the State." It directs the Governor to "faithfully to assist to punish that officer for failing to perform an act not in his power. But if the seal of the State was entrusted to his keeping, and he alone required to impress it as an evidence of the official action of the Legislature, a failure on his part to obey the direction of the Legislature gives to that body no power to punish him by either fine or imprisonment. Section 5 of article 15 of the constitution provides that the seal shall be elated by the voters

The State a Secretary, an Auditor and a Treasurer of the State, who shall severally hold their offices for two years. They shall perform such duties as may be enjoined by law." Section 7 of the same article provides that "all State officers shall, for crime, incapacity or negligence, be liable to be removed from office, either by the House of Representatives, or by a joint resolution of the Senate, or by a resolution of the General Assembly; two-thirds of the members elected to each branch, voting in either case therefor."

The Secretary of State holds an office created by the constitution. He is elected by the people

to discharge the duties assigned to him of the constitution and the laws of the State. He is required to exercise his office with fidelity, and to resign the constitution and discharge his duties, if by any act of his personal wrong is done to a citizen, the remedy for that wrong is upon his official bond. If he is guilty of a crime or misdemeanor, for the punishment of which the criminal or penal code of the State provides, he is liable to be punished upon information or indictment. But for a failure to discharge his official duties he is only liable to be punished in accordance with the provision of the constitution, as heretofore set forth in section 7. of article 6—that is,

by impeachment or removal from office. The people of the State, in the adoption of the section above mentioned, provided the means whereby the officers of State, by them chosen, should be punished for official negligence. They conferred upon the General Assembly the power to impeach officers before them, and depose them for a failure to discharge their duties. They never did confer upon the General Assembly the power to punish, in a court of justice, any of the State officers above mentioned for failure to perform any of the duties assigned them by law. They gave to every officer of the State the same

gent as they did to every member of the General Assembly, and taking no steps to support the maintenance of discipline, according to his own judgment—to put his construction thereon. They provided no punishment except that of expulsion for neglect of duty on the part of a member of the General Assembly, of which negligence the House to which he belonged could alone decide, and of the negligence of an officer of the House provided that the General Assembly could alone decide. The House preferred the provision of this bill to the one which subjected the Secretary of State to punishment for a neglect to execute your commands, which I regard as clearly in violation of the constitu-

For these reasons I cannot approve the bill.

ASHBEL F. WILLARD.

A "GO IN" COURT AND BAR.—At a recent session of an Iowa District Court, at Burlington, an attorney at the bar collared Judge Clagget, dragged him from the bench, and was about to chastise him in a very summary way, when other parties interposed and separated them. Mr. Browning was fined \$50 and sent to jail for six hours. The attorney went on to transact any more business in the court where such disgraceful acts are enacted, and the court broke up in a

general row.

[Reported Expressly for the Louisville Courier.]

**COURT OF APPEALS.**

\_\_\_\_\_

TUESDAY, Dec. 21, 1899.

CASES DECIDED.

Graves vs. Hall et al., Pulaski; affirmed.

Simpson vs. Kelley, " "

McGowan vs. Love, " "

Muse vs. Cooper, " "

Thompson vs. Hunt, Pulaski; reversed.

Carpenter vs. \_\_\_\_\_, Boyle; affirmed.

Clark's heirs vs. Loak, Garrard; " "

Sutton vs. Cummins, Jefferson; " "

Hutton's adm'ty vs. Hutton's adm'ty, Lincoln, answer.

ORDERS.

Stimms vs. Lynn, Lincoln, dismissed for want of justification.

Campbell vs. Ramsay, Garrard; petition for rehearing overruled.

Stegur & Perkins vs. same, Garrard; petition for rehearing overruled.

Bodd & Perkins vs. Commonwealth, Mercer; dismissed for failure to file record in time.

Dunn vs. Langford, Boyle; petition for rehearing filed.

Henderson & Nashville railroad vs. Batdorf, Christian; Martin et al. vs York et al., Christian;

Lacey vs. Lacey, Christian;

Barton vs. Hall, Putnam;

Wheeler vs. Wheeler, Putnam;

Walker vs. Walker, Boyle, vs. Boyle  
Brengle vs. Harlan, Boyle, were argued.











